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CO-LEAD CLASS COUNSEL

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

FELTON A. SPEARS, JR. and
SIDNEY SCHOLL, on behalf of themselves and
all others similarly situated,

Plaintiffs,

vs.

FIRST AMERICAN EAPPRAISEIT
(a/k/a eAppraiseIT, LLC),
a Delaware limited liability company,

Defendant.

) Case No. 5-08-CV-00868 (RMW)

) **STIPULATION AND []**

) **ORDER EXTENDING THE DEADLINES**
) **IN THE ACTION**

1 Plaintiffs Felton A. Spears, Jr. and Sidney Scholl (collectively “Plaintiffs”), and Defendant
2 eAppraiseIT, LLC (“EA”), by and through their respective counsel of record and pursuant to Local
3 Rules 6-2 and 7-12, enter into the following stipulation for an order to extend the remaining
4 deadlines in the action by approximately one (1) month pursuant to the schedule detailed below.

5 WHEREAS, on April 25, 2012, the Court Granted Plaintiffs’ Motion for Class Certification
6 of Plaintiffs’ single remaining claim under RESPA, 12 U.S.C. § 2607(a), certifying a Class of “All
7 consumers in California and throughout the United States who, on or after June 1, 2006, received
8 home loans from Washington Mutual Bank, FA in connection with appraisals that were obtained
9 through eAppraiseIT.” Dkt. No. 249, p. 12.

10 WHEREAS, on August 1, 2012, the Court entered a Revised Amended Order Regarding
11 Class Notice, Appointment of Lead Counsel, and Pre-Trial Scheduling setting forth deadlines for
12 distribution of Class Notice, merits discovery cutoff, expert reports, supplemental and rebuttal expert
13 reports, dispositive motions, mediation and trial. Dkt. No. 260, p. 3.

14 WHEREAS, on March 27, 2013, the Court entered an Order extending the deadlines in the
15 action by four (4) months to accommodate the scheduling of depositions and other discovery which
16 is primarily of third-parties, and to allow each party to take twenty-five (25) depositions in this
17 action. Dkt. No. 303.

18 WHEREAS, on April 23, 2013, the Court entered Orders denying EA’s motion for leave to
19 file a third-party complaint against the Federal Deposit Insurance Corporation (“FDIC”), denying
20 EA’s cross motion for judgment on the pleadings, and granting-in-part and denying-in-part
21 Plaintiffs’ motion for partial judgment on the pleadings. Dkt. Nos. 308 and 309.

22 WHEREAS, on May 7, 2013, EA filed its First Amended Answer and Affirmative Defenses
23 to Plaintiffs’ Second Amended Class Action Complaint. Dkt. No. 310.

24 WHEREAS, the Parties have worked cooperatively to conduct discovery, including
25 discovery of third-parties which has made up the majority of depositions, and have not yet neared
26 the court-allotted number of twenty-five (25) depositions per side. Dkt. No. 303.

27 WHEREAS, the Parties have agreed to a stipulation regarding document authenticity
28 (including, but not limited to, the stipulated authenticity of Washington Mutual Bank (“WaMu”) and

1 EA emails and attachments, appraisals, reports, and data generated by WaMu or EA) to eliminate the
2 need for certain depositions, and to reduce the time required in taking other witnesses' depositions.

3 WHEREAS, the Parties have received cooperation from several third-party witnesses to
4 participate in depositions at mutually agreeable times for all of the parties involved, and to
5 reasonable time limitations for third-party depositions whereby all of the depositions to-date have
6 been completed within one (1) days time.

7 WHEREAS, Plaintiffs have subpoenaed documents from third-party LSI Appraisal, LLC
8 ("LSI"), the company Plaintiffs alleged participated in a three-way conspiracy with EA and WaMu,
9 for evidence of meetings between EA and WaMu regarding appraisal services and inflation. LSI has
10 objected to producing records in response to the subpoena necessitating a motion to compel the
11 production which will be decided by a judge in the United States District Court for the Central
12 District of California.

13 WHEREAS, EA subpoenaed Kathleen Rice, an employee of third-party LSI, for her
14 testimony in this action. Ms. Rice has moved to quash the subpoena which will be decided by a
15 judge in the United States District Court for the Western District of Pennsylvania on a still-
16 undecided schedule (although the Parties may request that the judge transfer the matter to this Court
17 as the Parties believe that LSI is misstating this Court's earlier motion to dismiss rulings by claiming
18 that they should be read as precluding any deposition of a current or former LSI employee in this
19 case at all).

20 WHEREAS, Plaintiffs subpoenaed Bonnie Manz, an employee of third-party LSI, for her
21 testimony in this action. Ms. Manz also moved to quash said subpoena which will be decided by a
22 judge in the United States District Court for the Western District of Pennsylvania.

23 WHEREAS, Cheryl Feltgen, WaMu's former Chief Risk Officer, has been contacted about
24 providing testimony at a deposition and has indicated she is likely to object to any subpoena for her
25 testimony. If Ms. Feltgen objects to a subpoena, it will necessitate court intervention to compel her
26 attendance at a deposition.

27 WHEREAS, the Parties have each subpoenaed records for the now-defunct bank WaMu
28 from JP Morgan Chase, N.A. ("Chase"), the bank that purchased assets of WaMu, including Class

1 members' loans, after WaMu went into receivership by the FDIC. Plaintiffs first served a subpoena
2 on Chase in September 2012, and EA first served a subpoena on Chase in January 2013, and further
3 subpoenas were subsequently served on Chase by Plaintiffs. The records subpoenaed from Chase
4 seek information about Class members' loan status, the appraisal used for the loan, the appraisal fees
5 charged, and information relevant to the issue of whether the loan was a RESPA loan. These records
6 are relevant to various issues raised in this case. After meeting and conferring over the subpoenas on
7 numerous occasions, Chase agreed to produce certain records and information responsive to both
8 Parties' subpoenas concerning the more than 230,000 persons to whom Class notice was sent. While
9 some of those records have been produced, many others have yet to be produced despite the long
10 period of time since the parties' subpoenas were served. Depending on Chase's future productions
11 over the next week or so, a motion to compel may be imminently necessary, but it is something that
12 the Parties are attempting to avoid.

13 WHEREAS, with the possible exception of Chase, LSI, Feltgen, Rice, and Manz, the Parties
14 anticipate they will be able to complete outstanding first and third-party discovery by October 15,
15 2013.

16 WHEREAS, while the Parties are hopeful that they can complete the remaining third-party
17 discovery of Chase, LSI, Feltgen, Rice, Manz, and all other witnesses that have been identified as
18 having relevant information by October 15, 2013, given the need for Court intervention to compel
19 documents and testimony, the Parties recognize that they may need an additional extension to the
20 proposed schedule in the future. The Parties will raise any such need at the earliest possible date if
21 and when the need becomes apparent.

22 NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, IT IS HEREBY
23 STIPULATED, by and between the parties, that:

24 1. The pending deadlines for merits discovery cutoff, expert reports, supplemental and
25 rebuttal expert reports, dispositive motions, other motions, pretrial conference, pre-trial briefs and
26 trial date are extended pursuant to the below schedule:

1	<u>Event</u>	<u>Prior Deadline</u>	<u>New Deadline</u>
2	Merits discovery cutoff	September 13, 2013	October 15, 2013
3	Expert reports	October 14, 2013	November 15, 2013
4	Supplemental and rebuttal expert reports	March 11, 2014	April 14, 2014
5	Expert discovery cutoff (including any		
6	discovery relating to or arising from		
7	Plaintiffs' aggregate inflation analysis)		
8	Mediation	May 29, 2014	June 30, 2014
9	Dispositive motion cutoff	June 12, 2014	July 1: , 2014
10	Other motion cutoff	July 14, 2014	August 15, 2014
11	(other than motions in limine)		
12	Pretrial conference (hearing on motions in	September 4, 2014	October 6, 2014
13	limine, agreed jury instructions and verdict		
14	forms, proposed voir dire questions)		
15	Pretrial briefs	September 29, 2014	October 32, 2014
16	Trial date	October 20, 2014	November 24, 2014

14 Dated: August 16, 2013 FEINSTEIN DOYLE PAYNE & KRAVEC, LLC

15 By: /s/ Joseph N. Kravec, Jr.

16 Joseph N. Kravec, Jr., Co-Lead Class Counsel

17 Dated: August 16, 2013 LAW OFFICES OF JANET LINDNER SPIELBERG

18 By: /s/ Janet Lindner Spielberg via consent

19 Janet Lindner Spielberg, Co-Lead Class Counsel

20 Dated: August 16, 2013 IRELL & MANELLA LLP

21 By: /s/ A. Matthew Ashley via consent

22 A. Matthew Ashley, Attorneys for DEFENDANT

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25 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

26
27 Dated: August HE, 2013

28 
Honorable Ronald M. Whyte
United States District Judge